

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KAREN R. DENVIR
Deputy Attorney General
4 State Bar No. 197268
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2013-611**

13 **MARIE ANTOINETTE GRAHAM, AKA**
14 **MARIE ANTOINETTE LEWIS GRAHAM**
31 Clifwood Circle
North Little Rock, Arkansas 72118

A C C U S A T I O N

15 **Registered Nurse License No. 488004**

16 Respondent.

17
18 Louise R. Bailey, M.Ed., R.N. ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the Executive
21 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

22 **Registered Nurse License**

23 2. On or about March 31, 1993, the Board issued Registered Nurse License
24 Number 488004 to Marie Antoinette Graham, also known as Marie Antoinette Lewis Graham
25 ("Respondent"). The Registered Nurse License expired on April 30, 2009, and has not been
26 renewed.

27 ///

28 ///

1 **JURISDICTION**

2 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
3 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
4 license, for any reason provided in Article 3 (commencing with Code section 2750) of the
5 Nursing Practice Act.

6 4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a
7 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
8 period within which the license may be renewed, restored, reissued, or reinstated.

9 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
10 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
11 to render a decision imposing discipline on the license.

12 **STATUTORY PROVISIONS**

13 6. Code section 2761 states, in pertinent part:

14 The board may take disciplinary action against a certified or licensed nurse or
15 deny an application for a certificate or license for any of the following:

16 (a) Unprofessional conduct, which includes, but is not limited to, the
17 following:

18 (4) Denial of licensure, revocation, suspension, restriction, or any other
19 disciplinary action against a health care professional license or certificate by another
20 state or territory of the United States, by any other government agency, or by another
21 California health care professional licensing board. A certified copy of the decision
22 or judgment shall be conclusive evidence of that action.

23 **COST RECOVERY**

24 7. Code section 125.3 provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licentiate found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
28 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
included in a stipulated settlement.

///

///

1 CAUSE FOR DISCIPLINE

2 (Out-of-State Discipline)

3 8. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4),
4 on the grounds of unprofessional conduct, in that the Arkansas State Board of Nursing approved a
5 *Consent Agreement* and issued an *Order*, effective January 13, 2011, in a disciplinary action
6 entitled *In the matter of: Marie Antoinette Lewis Graham APN License No. A03059, RN License*
7 *No. R54905, PAC 2959*, placing Respondent's licenses on probation for eighteen months with
8 terms and conditions. The *Consent Agreement* and *Order* are attached hereto and incorporated
9 herein as **Exhibit A**. The disciplinary action was based on Respondent's unprofessional conduct;
10 specifically, on or about March 9, 2010, Respondent tested positive for cocaine in a pre-
11 employment drug screen for St. Vincent's Hospital in Little Rock, Arkansas. Further, on or about
12 April 8, 2010, Respondent admitted to cocaine use.

13 **PRAYER**

14 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Board of Registered Nursing issue a decision:

- 16 1. Revoking or suspending Registered Nurse License Number 488004, issued to Marie
17 Antoinette Graham, also known as Marie Antoinette Lewis Graham;
- 18 2. Ordering Marie Antoinette Graham, also known as Marie Antoinette Lewis Graham,
19 to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement
20 of this case, pursuant to Business and Professions Code section 125.3; and,
- 21 3. Taking such other and further action as deemed necessary and proper.

22
23 DATED: February 12, 2013

24 for LOUISE R. BAILEY, M.ED., R.N.
25 Executive Officer
26 Board of Registered Nursing
27 State of California
28 Complainant

SA2012108189
11011167.doc

EXHIBIT A

Consent Agreement and Order, Eff. January 13, 2011

In the matter of: Marie Antoinette Lewis Graham

APN License No. A03059, RN License No. R54905, PAC 2959

Arkansas State Board of Nursing

BEFORE THE ARKANSAS STATE BOARD OF NURSING

IN THE MATTER OF:

MARIE ANTOINETTE LEWIS GRAHAM

**APN LICENSE NO. A03059
RN LICENSE NO. R54905
PAC 2959**

CONSENT AGREEMENT

A complaint charging Marie Antoinette Lewis Graham (hereinafter referred to as "Respondent") with violations of the Arkansas Nurse Practice Act has been received by the Arkansas State Board of Nursing (hereinafter referred to as "the Board"). In the interest of a prompt and speedy settlement of the above-captioned matter consistent with the public interest, statutory requirements, and the responsibilities of the Board, the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

Based on the evidence before it, the Board makes the following Findings of Fact, Conclusions of Law and Order:

I. Findings of Fact

- mc 1.** The Respondent is the holder of Arkansas APN License No. A03059, RN License No. R54905 and PAC 2959.
- mc 2.** The Respondent tested positive for Cocaine in a pre-employment drug screen on or about March 9, 2010, by St. Vincent's Hospital, Little Rock, Arkansas.
- mc 3.** The Respondent admitted to using Cocaine in a written statement to Board staff dated on or about April 8, 2010.

II. Conclusions of Law

- mc 1.** Pursuant to Ark. Code Ann. §17-87-203 and §17-87-309, the Board has subject

IN THE MATTER OF:

MARIE ANTOINETTE LEWIS GRAHAM

APN LICENSE NO. A03059

RN LICENSE NO. R54905

PAC 2959

matter and personal jurisdiction in this matter.

Mc 2. The conduct described in the Findings of Fact constitutes a violation of Ark. Code Ann. §17-87-309(a)(6).

Mc 3. The conduct described in the Findings of Fact constitutes sufficient cause pursuant to Ark. Code Ann. §17-87-309 to suspend, revoke or otherwise discipline a licensee who possesses a nursing license or the privilege to practice nursing in the State of Arkansas.

III. Order

Mc 1. The Respondent admits the Board's Findings of Fact and Conclusions of Law.

Mc 2. In lieu of a formal hearing on these issues, Respondent agrees to the issuance of the attached Order and waives all rights to a hearing, appeal, or judicial review relating to the Order.

Mc 3. The Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Mc 4. The Respondent understands that those admissions are conclusive evidence of a prior violation of the Arkansas Nurse Practice Act and may be used for the purposes of determining sanctions in any future disciplinary matter.

Mc 5. The Respondent is represented by Mr. Willard Proctor, Jr., Little Rock, Arkansas.

Mc 6. The Respondent understands as a result of entering into this Consent Agreement

IN THE MATTER OF:

MARIE ANTOINETTE LEWIS GRAHAM

APN LICENSE NO. A03059

RN LICENSE NO. R54905

PAC 2959

that the terms of this agreement become public record and shall be reported to the National Council of State Boards of Nursing Disciplinary Data Bank and the Healthcare Integrity and Protection Data Bank.

m67. The Respondent understands that this Consent Agreement is effective upon its acceptance by the Board.

I have initialed each numbered and lettered paragraph of the proposed CONSENT AGREEMENT as proof that I have READ IT, UNDERSTAND IT, and do not wish to contact the Arkansas State Board office for further explanation. I accept the proposed CONSENT AGREEMENT as stated.

State of Arkansas)
)ss
County of Pulaski)

Marie Antoinette Lewis Graham
RESPONDENT'S SIGNATURE

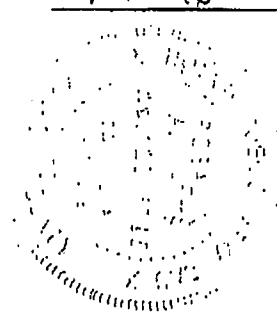
15 Dec 2010
DATE

Subscribed and Sworn to before me, a Notary Public, on this 15 day of December, 2010.

Robert A. Watts
Notary Public

My Commission Expires:

1-10-16



IN THE MATTER OF:

MARIE ANTOINETTE LEWIS GRAHAM

APN LICENSE NO. A03059

RN LICENSE NO. R54905

PAC 2959

BEFORE THE ARKANSAS STATE BOARD OF NURSING

IN THE MATTER OF:

MARIE ANTOINETTE LEWIS GRAHAM

APN LICENSE NO. A03059

RN LICENSE NO. R54905

PAC 2959

ORDER

In view of the above Findings of Fact, Conclusions of Law, and the consent of the Respondent, the Board hereby issues the following Order:

m/b 1. The Respondent consents to the terms and conditions of the Order and waiver of a public hearing is accepted.

m/b 2. The Respondent's license(s) is (are) placed on probation for eighteen (18) months. The Respondent's Prescriptive Authority Certificate is suspended for the period of probation and Respondent must appear before the Board to request reinstatement. Probation is to commence on the effective date of this Order and is subject to the following conditions:

m/b a. Within five (5) days upon receipt of this Order, the Respondent's license must be sent to the Board so that the license can be marked "probation."

m/b b. The Respondent must notify each present and future employer in professional nursing of this Order of the Board and the probation conditions on Respondent's license and present to every employer in professional nursing a copy of this Consent Agreement and Order.

m/b c. The Respondent, if employed as a nurse, must practice under an employer-

IN THE MATTER OF:

MARIE ANTOINETTE LEWIS GRAHAM

APN LICENSE NO. A03059

RN LICENSE NO. R54905

PAC 2959

monitored nurse contract. A copy of the employer-monitored nurse contract and a quarterly Performance Evaluation Report must be submitted by the employer to the Board. It is the responsibility and duty of the Respondent to insure that the employer submits these documents in a timely fashion.

m₆ d. The Respondent must immediately notify the Board in writing of any change, even a temporary one, in name, address, or employer.

m₆ e. The Respondent may not work outside the State of Arkansas in another compact licensure state without written permission of the Arkansas State Board of Nursing and the Board of Nursing in the compact licensure state where the Respondent wishes to work.

m₆ f. The Respondent must submit to random drug screens. The drug screens must meet the criteria established by the Board and be conducted through a Board-approved drug screen monitoring program and laboratory. Contact must be made with a Board-approved drug screen monitoring program within five (5) business days of receipt of this Order. The Respondent cannot submit specimens at the Respondent's place of employment or practice site. The Respondent cannot collect any Board of Nursing ordered program participant drug screen. The Respondent must contact the drug screening company daily. If selected for testing, the Respondent will have two (2) hours to report to the drop off site. (See Attachment No. 1)

m₆ g. The Respondent must abstain at all times from the use of controlled or abuse potential substances, including alcohol, except as prescribed by a licensed practitioner from

IN THE MATTER OF:

MARIE ANTOINETTE LEWIS GRAHAM

APN LICENSE NO. A03059

RN LICENSE NO. R54905

PAC 2959

whom medical attention is sought. Respondent shall not consume hemp, poppy seeds, or any product or by-product containing the same. Respondent shall inform all licensed practitioners who authorize prescriptions of controlled or abuse potential substances of the Board's Order, and Respondent shall cause all such licensed practitioners to submit a written report identifying the medication, dosage, and the date the medication was prescribed. The prescribing practitioners shall submit the report directly to the Board within ten (10) days of the date of the prescription. It is the responsibility and duty of the Respondent to insure that the prescribing practitioners submit their written reports in a timely fashion.

mc h. The Respondent is responsible for submitting a personal report to accompany required data to the Board on a quarterly basis.

mb i. The Respondent's responsibility is to insure that all reports are submitted to the Board on a quarterly basis.

mb j. The Respondent shall execute any release necessary to give the Board of Nursing access to records, including but not limited to medical, employment and criminal records. Failure to execute a release shall be grounds for disciplinary action against Respondent's nursing license/privilege.

mc k. The Respondent shall obey all federal, state, and local laws, and all rules governing the practice of nursing in this state.

mb l. All costs involved in complying with this Order shall be borne by the Respondent.

IN THE MATTER OF:

MARIE ANTOINETTE LEWIS GRAHAM

APN LICENSE NO. A03059

RN LICENSE NO. R54905

PAC 2959

m. Failure to comply with a signed Consent Agreement may result in the suspension of the nurses license to practice nursing in this state.

n. Verification of termination of the probationary period may be requested in a registered letter to the Board.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN THE MATTER OF:

MARIE ANTOINETTE LEWIS GRAHAM

APN LICENSE NO. A03059

RN LICENSE NO. R54905

PAC 2959

MC 3. In addition to the probation imposed above, the Respondent shall pay a fine of \$500.00 pursuant to Ark. Code Ann. §17-87-104(b)(1). Such fine will be payable within fifteen (15) days of receipt of this Order or a payment schedule must be submitted within fifteen (15) days to the Arkansas State Board of Nursing.

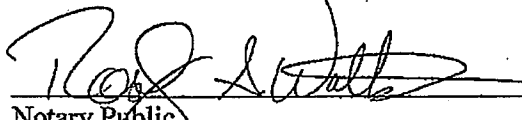
I have initialed each numbered and lettered paragraph of the proposed CONSENT AGREEMENT as proof that I have READ IT, UNDERSTAND IT, and do not wish to contact the Arkansas State Board office for further explanation. I accept the proposed ORDER as stated.

State of Arkansas)
)ss
County of Pulaski)


RESPONDENT'S SIGNATURE

18 Dec 2010
DATE

Subscribed and Sworn to before me, a Notary Public, on this 15th day of December, 2010.


Notary Public

My Commission Expires:

1-10-16

ARKANSAS STATE BOARD OF NURSING

By: Brenda Murphree, R.N.
Brenda Murphree, RN, President

Dated: 1-13-2011

